

IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

UNITED STATES OF AMERICA,	)	
	)	Civil No. 1:02CV107
Plaintiff,	)	
vs.	)	Judge S. Arthur Spiegel
	)	
THE BOARD OF COUNTY	)	
COMMISSIONERS OF	)	
HAMILTON COUNTY, OHIO, et al.,	)	
	)	
Defendants.	)	
_____	)	
STATE OF OHIO,	)	
	)	
Plaintiff,	)	<b>STATUS REPORT BY DEFENDANTS</b>
vs.	)	<b>BOARD OF COUNTY</b>
	)	<b>COMMISSIONERS, HAMILTON</b>
THE BOARD OF COUNTY	)	<b>COUNTY, OHIO AND THE CITY OF</b>
COMMISSIONERS OF HAMILTON	)	<b>CINCINNATI, OHIO ON LONG TERM</b>
COUNTY, OHIO and THE CITY OF	)	<b>CONTROL PLAN</b>
CINCINNATI,	)	
	)	
Defendants.	)	
_____	)	

On April 10, 2008, the Court ordered the Defendants to provide a status report regarding the Long Term Control Plan ("LTCP") submission under the Global Consent Decree entered by this Court on June 9, 2004. The Court this month received a detailed report from the Ombudsman on the Water In Basement ("WIB") program as well as a status report on compliance with the Global Consent Decree provisions from USEPA, Ohio EPA and ORSANCO ("the Regulators"). Defendants concur with those submissions. Additional information on the WIB and ongoing Consent Decree activities is available at the MSDGC

website (<http://www.msdgc.org>). Pursuant to the Court's Order, Defendants' status report provides detailed information on the LTCP.

### **I. Status of LTCP Update**

The Global Consent Decree required the Defendants to undertake a study and submit a Long Term Control Plan update to the Regulators by June 30, 2006. Defendants engaged in an extensive program of study and discussion with the Regulators, and timely submitted the Long Term Control Plan update draft on June 22, 2006. The entire 24 volume 2006 LTCP update draft is available upon the Court's request.

### **II. Status of LTCP Negotiations**

Following submission of the June 2006 LTCP update draft, the Defendants and the Regulators have engaged continuously in extensive analysis and negotiations regarding technical projects and issues, as well as financial feasibility. As part of those discussions, in February 2007, USEPA recommended that the Defendants add "green infrastructure" to its LTCP methods of preventing sewer overflows. Green infrastructure generally refers to a storm water management system composed of natural and man-made elements, technologies, best management practices and controls that replicate natural (undeveloped) hydrology in areas that have been developed.

The Defendants entered upon an extensive investigation of potential incorporation of green infrastructure into the LTCP. As noted in the Regulators' status report, the Defendants submitted a conceptual "Green Infrastructure Program" report to the Regulators in July 2007.

The Green Infrastructure Program report is available on MSD's web site at  
<http://www.msdgc.org/wetweather/greenreport.htm>.

Since July 2007, the parties have continued to engage in investigation and discussion of technical solutions (including green infrastructure) and increased analysis of financial feasibility. As part of that continuing discussion, the Defendants sent to USEPA in January and April 2008 technical analyses of LTCP projects, adding green infrastructure, that included the development of a sophisticated tool to analyze potential capture volumes and assess costs. The Regulators, Defendants, and Sierra Club reviewed these matters during the first quarter of 2008 and held a meeting/teleconference on green infrastructure issues on April 23, 2008.

As the parties continue negotiations on technical and financial feasibility, the Defendants (and Regulators) have actively engaged the Sierra Club. Sierra Club and Defendants have conferred often, both formally and informally, on such issues as reprioritization of June 2006 LTCP draft projects, inclusion of green infrastructure, schedules, and financial issues. Defendants have sought and continue to seek Sierra Club's input and counsel regarding the wide range of complex issues which are being resolved in order to finalize the LTCP. In 2008, the Defendants have met in person five times with the Sierra Club, including three times in April 2008.

The Defendants, the Regulators and the Sierra Club all share a common desire to resolve the difficult, open issues in the LTCP as soon as possible. While this ongoing technical, scientific, financial, and legal work is underway, the Defendants remain active with many ongoing Consent Decree projects that have eliminated and will continue to eliminate and control combined and sanitary sewer overflows. Defendants are very actively working with the

Regulators and the Sierra Club to develop a LTCP update that complies with the Consent Decree.

Respectfully submitted,

*/s/ Louis L. McMahon*

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**CERTIFICATE OF SERVICE**

I hereby certify that on May 1, 2008, a copy of the foregoing was filed electronically with the Court's Case Management/Electronic Case Files (CM/ECF) docketing system. Notice of this filing will be sent by operation of the CM/ECF system. Parties may access this filing through the CM/ECF system. The following were served with the foregoing on May 1, 2008, by U.S. Mail:

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